

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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MARJORIE DORN,

Plaintiff,
-against-

ORDER
09-CV-2717 (ADS)(AKT)

DAVID BERSON, DAREMY COURT
QUALIFIED VENTURES, LLC, DAREMY
COURT QUALIFIED, INC.,

Defendants.

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APPEARANCES

Law Office of Ira S. Newman

Attorney for the plaintiff
98 Cutter Mill Road, Suite 441-south
Great Neck, NY 11021

By: Ira S. Newman, Esq., Of Counsel

NO APPEARANCE

David Berson, Daremy Court Qualified Ventures, LLC, Daremy Court Qualified, Inc.

SPATT, District Judge.

On June 25, 2009, Marjorie Dorn (“the Plaintiff”) commenced this action against David Berson (“Berson”), Daremy Court Qualified Ventures, LLC, and Daremy Court Qualified, Inc. (“the Corporate Defendants” and together with Berson “the Defendants”), alleging that the Defendants had fraudulently induced her to invest in a private investment fund in violation of Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j and the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962. In addition, based on the same alleged misconduct, the plaintiff asserted claims against the defendants for common law fraud, breach of fiduciary duty, negligence, gross negligence, conversion, and constructive fraud against Berson.

On March 25, 2011, the Court entered a default judgment against the Corporate Defendants, and on June 7, 2011, the Court entered a default judgment against Berson. The Court referred both defaults to United States Magistrate Judge A. Kathleen Tomlinson for an inquest as to damages, including reasonable attorneys' fees and costs.

On March 1, 2012, Judge Tomlinson issued a Report and Recommendation, recommending that the Court award the Plaintiff: (1) damages in the amount of \$124,673.81, consisting of \$81,703.40 for the money initially invested in Daremy and \$42,970.41 in promised returns; (2) pre-judgment interest at a rate of \$30.74 per diem from January 1, 2009 until the date judgment is entered; and (3) post-judgment interest at the rate set forth in 28 U.S.C. § 1961 as of the date of the entry of final judgment. To date, there have been no objections filed to the Report.

In reviewing a report and recommendation, a court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. §636(b)(1)(C). "To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003) (citing Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)). The Court has reviewed Judge Tomlinson's Report and finds it be persuasive and without any legal or factual errors. There being no objection to Judge Tomlinson's Report, it is hereby

ORDERED, that Judge Tomlinson's Report and Recommendation is adopted in its entirety. The Court awards the Plaintiff damages in the amount of \$124,673.81; pre-judgment interest at a rate of \$30.74 per diem from January 1, 2009 until the date judgment is entered; and

post-judgment interest at the rate set forth in 28 U.S.C. § 1961 as of the date of the entry of final judgment, and it is further

ORDERED, that the Clerk of the Court is directed to enter judgment in favor of the Plaintiff in the amount of \$124,673.81 and pre-judgment interest calculated at a rate of \$30.74 per diem from January 1, 2009 until the date judgment is entered, and it is further

ORDERED, that the Clerk of the Court is directed to close this case.

SO ORDERED.

Dated: Central Islip, New York
March 22, 2012

/s/ Arthur D. Spatt
ARTHUR D. SPATT
United States District Judge